

**Chesapeake Bay Local Assistance Board  
Northern Area Review Committee  
Tuesday, August 9, 2005 – 10:00 a.m.  
101 N. 14<sup>th</sup> Street – James Monroe Building  
Richmond, Virginia**

**Northern Area Review Committee Members Present**

Mr. David L. Bulova

Mr. William E. Duncanson

**Northern Area Review Committee Members Not Present**

Mr. Donald W. Davis

Mr. Walter J. Sheffield

**DCR Staff Present**

Ms. Joan Salvati, Director, Division of Chesapeake Bay Local Assistance  
Ms. Martha Little, Chief of Environmental Planning  
Ms. Shawn Smith, Principal Environmental Planner  
Ms. Beth Baldwin, Senior Environmental Planner  
Ms. Nancy Miller, Senior Environmental Planner  
Ms. Christine Watlington, Policy, Planning and Budget Analyst

**Others Present**

*Fairfax County*  
Mr. Tom Simcoe

*Town of Urbanna*  
Mr. G. Lewis Filling

*Town of West Point*  
Mr. Trenton Funkhouser

**Call to Order and Opening Remarks**

Mr. Duncanson called the meeting to order.

**Local Program Reviews – Phase I**

*Lancaster County*

Ms. Baldwin presented the report for Lancaster County.

Lancaster County adopted its revised Phase I program in October 2003. The Board found the amended ordinance inconsistent at its meeting in March 2004 and required the County to undertake and complete ten recommendations by May 15. At the June Board meeting, the County indicated that it had not and would not undertake any of the required recommendations. Because of the County's position, the Board moved that the Department director take whatever action was necessary to compel the County to adopt a consistent Phase I program.

Through numerous meetings and discussions with the Department and the Office of the Attorney General, Lancaster eventually agreed to amend its ordinance to be consistent with the revised Regulations. On May 26, 2005, the County adopted all of the required changes to its ordinance.

These changes include adding definitions, adding the required criteria for permitting redevelopment in the RPA, revising language for permitted buffer modifications and exemptions to reflect current regulatory requirements, and abandoning its previous buffer encroachment policy on lots recorded prior to September 1, 1990. Other changes include adding the required findings when permitting the expansion of a principal structure on a nonconforming lot and adopting a process for exceptions that is consistent with revised Regulations. Finally, the County added the requirements that buffers must be re-established as a result of a change of land use and that erosion and sediment control requirements must be met for activities that disturb more than 2,500 square feet of land but are otherwise exempt from Bay Act requirements.

Since all of the recommendations have been addressed, it is staff's opinion that the Board find Lancaster County's amended Phase I program consistent with the Act and revised Regulations.

Ms. Baldwin noted that no one was present from Lancaster County.

Mr. Bulova congratulated the staff on their work with Lancaster County in bringing this matter to a resolution. He asked which of the suggestions were adopted and which were not adopted.

Ms. Baldwin said the County adopted all of the staff suggestions with the exception of adding the 2,500 sq. ft. requirement for disturbances. The County did not want to specify the threshold that would require a permit, but rather wanted all applicants to discuss any land disturbing activities with the County before undertaking any action. This would assist with helping to ensure compliance with all of the County's ordinances.

**COMMITTEE RECOMMENDATION:**

The Northern Area Review Committee recommends to the Chesapeake Bay Local Assistance Board that Lancaster County's amended Phase I program be found consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

*Town of White Stone*

Ms. Baldwin presented the report for the Town of White Stone.

White Stone adopted its revised Phase I program in January 2004. The Board found the amended program inconsistent at its June 2004 meeting and further required the Town to undertake and complete ten recommendations by December 31, 2004. These ten recommendations were the same ones Lancaster County had been required to address since the Town of White Stone had adopted verbatim Lancaster County's amended Bay Act ordinance. As had been previously mentioned, White Stone adopted the same ordinance to show support for the County and because the County implements the local program on the Town's behalf.

Once Lancaster County had agreed to amend its ordinance to be consistent with the revised Regulations in the spring of 2005, the Town of White Stone followed suit and on June 26, 2005, the Town adopted the Bay Act ordinance that Lancaster had adopted the previous month.

As elaborated in the Lancaster summary, all of the recommendations have been addressed and therefore, it is staff's opinion that the Board find the Town of White Stone's amended Phase I program consistent with the Act and revised Regulations.

**COMMITTEE RECOMMENDATION:**

The Northern Area Review Committee recommends to the Chesapeake Bay Local Assistance Board that the Town of White Stone's amended Phase I program be found consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

*Town of West Point*

Ms. Miller presented the report for the Town of West Point.

On September 20, 2004 the Board reviewed the Town's revised Phase I program and found it consistent, subject to the condition that the Town revise the CBPA Map to be consistent with the Regulations and established December 31, 2004 as the deadline.

Department staff met with Town staff in the fall and winter and the Town adopted a revised map on February 28, 2005, but this map included significant errors and omissions. The Town requested and on June 20<sup>th</sup>, received a deadline extension to June 30, 2005 to correct the CBPA Map. The Department worked with the Town to assist in the development of an appropriate CBPA map.

The Town Council was to adopt the revised map on July 25<sup>th</sup>, but did not do so. Because of the language in the Board's June 20<sup>th</sup> resolution, staff has no choice but to recommend that the Town of West Point be found inconsistent with the Act and the Regulations. Staff further recommends that the Town be given a final compliance deadline of September 30, 2005 to complete the recommendation contained in the staff report.

Mr. Funkhouser noted that the Town Council did choose not to adopt the revised map as suggested. He stated that the Town would amend the map as required, but that the September deadline may be difficult.

Mr. Bulova said that he would prefer to keep the deadline as September 30, but if there was clear indication that Town was moving forward, that date could be amended at the September 19, 2005 Board meeting.

#### **COMMITTEE RECOMMENDATION:**

The Northern Area Review Committee recommends to the Chesapeake Bay Local Assistance Board that the Town of West Point's Phase I program be found inconsistent; that failure of the Town to meet the compliance date of September 30, 2005 will result in the local program becoming subject to the compliance provisions as set forth in § 10.1-2013 10 of the Act and § 9 VAC 10-20-250 of the Regulations and finally that Town staff provide an update as to progress before final action at the September 19 meeting.

#### **RECOMMENDATION DISCUSSION:**

Mr. Funkhouser said that he could provide an update following the Town Council meeting on August 29.

#### **Local Program Reviews – Compliance Evaluation**

*Gloucester County*

Ms. Miller presented the report for Gloucester County.

On December 13, 2004 the Chesapeake Bay Local Assistance Board conducted a compliance evaluation condition review of 5 conditions. The Board found that Gloucester County had met 4 of the 5 conditions, but had not yet addressed the condition relating to septic pump-out. The Board set a deadline of June 30, 2005 for the County to undertake and complete the remaining recommendation.

The recommendation related to the implementation of a 5-year septic system pump-out notification and enforcement program. The County created and is using a database which tracks septic pump-out information, generates notices to on-site septic system owners and tracks their responses. The County mailed the required notices in the final week of June 2005, including a certification form to be completed by the pump-out service provider and returned to the County for entry in the database, and a septic system care and maintenance brochure developed by the Tidewater Soil and Water Conservation District. The County also published related articles in the local newspaper and County newsletters, and distributed the brochure to realtors, septic system contractors, construction contractors, and other interested groups.

The Department feels that the County has adequately addressed the sole remaining compliance condition and staff recommends that the Board find that Gloucester County's Phase I program complies with the Act and the Regulations.

**COMMITTEE RECOMMENDATION:**

The Northern Area Review Committee recommends to the Chesapeake Bay Local Assistance Board that implementation of Gloucester County's Phase I program be found fully compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

**RECOMMENDATION DISCUSSION:**

Mr. Bulova asked about the sustainability of the program and staff assessment as to the future success of the program.

Ms. Miller said the County went to a great deal of trouble and expense with the development of the database. There are 14,000 properties in the database.

Mr. Bulova asked if staff knew the total cost for Gloucester County and how much it will cost to implement on an ongoing basis. He noted that the cost factor seems to be a frequent concern with compliance evaluations. He noted it would be helpful to know what type of resources local governments need to successfully implement a similar program.

Ms. Miller said that she could obtain the numbers, but did not have them readily available. The projected mailing cost for the notices was \$6,000 but actual costs may have been considerably less. The brochure was not a necessity and DCR-DCBLA provided a grant to fund a portion of the printing cost, approximately \$6,000. Ms. Miller agreed to get the cost numbers for materials and the development of the database.

Ms. Little said that there were grant projects in the works that will help pay for notifications and to pay for actual pump-outs for low and middle income families.

Mr. Bulova asked if the Middle Peninsula had helped pay for pump-outs.

Ms. Little said the Middle Peninsula PDC has done replacement and repair, but had not previously paid for pump-outs.

Ms. Little said that DCR staff would be meeting with TMDL staff from the Department of Environmental Quality as they deal with impairments and believe septic pump-out will help with some of the impairment issues.

Ms. Miller said that the Gloucester Staff had been extremely cooperative and committed to completing the program. She noted that the County Administrator had expressed concerns to Ms. Salvati.

Ms. Salvati said that the County had asked why they were not allowed to phase in the program.

Ms. Miller said that staff was encouraging phasing. However, when the mailing was sent it was sent based on a list from the County Treasurer's office. It was a local choice to mail to all relevant households at one time.

Ms. Miller said that she would also provide a copy of the brochure prepared by the Tidewater Soil and Water Conservation District.

Ms. Little said that through educational funds from DEQ, DCR was able to assist five localities with the printing of information.

#### *Caroline County*

Ms. Smith gave an update regarding the compliance evaluation for Caroline County. Members were provided a memorandum outlining the progress. A copy is available from DCR.

Ms. Smith said the County was progressing with the recommendations and that DCR is providing assistance as needed.

No one was present from Caroline County.

*Town of Urbanna*

Ms. Miller gave the report for the Town of Urbanna. She introduced Lewis Filling, Town Manager for Urbanna.

The Department conducted a compliance evaluation of the Town of Urbanna's implementation of its local Phase I program, and met with Town staff on December 7, 2004 and March 2, 2005 to complete the checklists, review site plan files, and conduct site visits. The Town is small, development is limited and the Town is nearly built-out. However, six projects including a new single family lot development; residential and waterfront commercial redevelopment; water dependent facility; new commercial; and an RPA exception request were reviewed.

While the evaluation revealed that the Town is striving to implement its local Bay Act program conscientiously, the resulting staff report isolates areas that must be addressed for consistency and includes 3 recommendations. The Town must: ensure that all development plans are compliant with the stormwater management requirements of the Regulations; track BMP installation and maintenance activities, and record the required BMP maintenance agreements; and, document submission of all required WQIAs. Staff further recommends that Urbanna undertake and complete the three recommendations no later than September 30, 2006, and Department staff will provide appropriate assistance to the Town as it undertakes the necessary adjustments.

Mr. Filling said the Town was comfortable with the recommendations and the timeline.

Mr. Bulova asked whether the suggestion regarding default impervious land cover should be made a recommendation for the purposes of consistency. He asked if a percentage was specified within the ordinance.

Ms. Miller said that a percentage was not specified.

Mr. Bulova said that he would prefer to see this as a recommendation rather than a suggestion. Staff agreed to make that change.

**COMMITTEE RECOMMENDATION:**

The Northern Area Review Committee recommends that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the Town of Urbanna's Phase I program do not comply with §§ 10.1-2109 and 2111

of the Act and §§ VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, the Town be directed to undertake and complete the 4 recommendations contained in the amended staff report no later than September 30, 2006.

*Town of Warsaw*

Ms. Baldwin presented the report for the Town of Warsaw.

The Department initiated the compliance evaluation in March 2005. A first meeting was held in April with the Town Manager of Warsaw, Richmond County Planning Director, and Department staff in attendance. The Town and County elaborated upon their responsibilities with respect to Bay Act implementation and discussed the development projects that had occurred in Warsaw over the past few years. A second meeting was held in June 2005, to review site plans and visit a few of the sites selected from the plan review. With the exception of one multi-family apartment unit, all other plans were for single-family home construction.

Many elements of a local Bay Act program are not applicable to Warsaw. As there are no tidal wetlands or tidal shores in the town, tidal wetland permitting is not an issue. As the town has a public sewer system that serves most residences, pump-out and reserve drainfield standards are not applicable. Richmond County's pump-out program will address the few homes in Warsaw that are still on septic. Finally, the Town has not had any applications for expansions of nonconforming principal structures in the RPA or exception requests to the RPA development criteria in the past few years.

As noted in the staff report, the Town has amended its Development Management Ordinance to require that Low Impact Development practices be implemented to address stormwater runoff. The Town only recently enacted this policy, however, and only one project has had to conform to this requirement. The Town should be commended for its willingness to be a pilot community for LID and taking a proactive approach towards stormwater management. Other localities may soon follow Warsaw's lead.

During the course of the review, Department staff identified a few concerns with stormwater management but as Richmond County is responsible for implementing that aspect of the Town's program, those concerns were directed, as appropriate, to the County.

While there are not any recommendations for compliance, Department staff have included two suggestions. First, to help the County in their reviews, the Town should try to make sure that all proposed impervious surfaces and the RPA limits are shown on the plat or plan. Second, the Department strongly encourages the Town and County to draft



a formal agreement that clearly defines each party's responsibility for Bay Act implementation. Such an agreement will help to ensure that the Town's Bay Act program continues to be adequately administered and enforced.

In closing, staff recommends that the Board find the Town's implementation of its Bay Act program fully compliant with the Act and Regulations.

Mr. Bulova expressed a concern about single-family homes and site plans. He noted that the sentence "The submittal of a surveyed site plan with the proposed house location should help to ensure that encroachments into the RPA when otherwise not permitted, does not occur," should be reflected as a separate suggestion. Staff agreed.

Mr. Bulova inquired whether the statement "The Town/County should require impervious and stormwater quality calculations for all development projects to verify consistency with the stormwater quality provisions of the Regulations," should be a recommendation rather than a suggestion.

Ms. Baldwin said that this was a suggestion because the Town was compliant with this requirement. However, staff agreed to review the information to see if this should be a recommendation rather than a suggestion.

**COMMITTEE RECOMMENDATION:**

The Northern Area Review Committee recommends that the Chesapeake Bay Local Assistance Board find that the implementation of the Town of Warsaw's Phase I program be found compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations pending the result of staff investigation with regard to the impervious and stormwater quality calculations.

**Adjourn**

There being no further business, the meeting was adjourned.

Respectfully submitted,

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Donald W. Davis  
Chair

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Joseph H. Maroon  
Director